



UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ANTHONY EDWARD MARTINEZ

Application No. 09/657,116

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on May 10, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the file indicates that the appellants filed the Appeal Brief of July 27, 2005 using the format set forth in 37 CFR § 41.37(c).

Upon an in-depth review of the Appeal Brief indicates that the following sections are missing from the Appeal Brief of July 27, 2005:

- 1) "Evidence Appendix", as set forth in 37 CFR § 41.37(c)(1)(ix); and
- 2) "Related Proceedings Appendix", as set forth in 37 CFR § 41.37(c)(1)(x).

A Supplemental Appeal Brief that is in compliance with 37 CFR § 41.37(c) is required. For more information See United States Patent and Trademark website www.uspto.gov, in particular the web page entitled More Information on the Rules of Practice Before the BPAI, Final rule at:

<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>.

Also, an Information Disclosure Statement (IDS) was filed June 3, 2005. It is not apparent from the record that the examiner considered the statement submitted nor notified applicants of why his submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Further, on February 15, 2005, appellants filed a paper entitled "Notice of Appeal", which authorized payment to Deposit Account No. 09-0447. The fee has not been charged.

Accordingly it is

ORDERED that the application is electronically returned to the Examiner:

- 1) to hold the Appeal Brief of July 27, 2005 defective;
- 2) for applicant to file a Supplemental Appeal Brief in compliance with 37 CFR § 41.37;
- 3) for consideration of the Information Disclosure Statement filed June 3, 2005;
- 4) for charging the Notice of Appeal fee to Deposit Account No. 09-0447: and

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5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
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By:

A handwritten signature in black ink, appearing to read 'D. M. Shaw', is written over a horizontal line.

DALE M. SHAW
Deputy Chief Appeal Administrator
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GJH

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